

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
NORTHERN DIVISION

UNITED STATES OF AMERICA

CR 95-10003-02

Plaintiff,

-vs-

ORDER

DAVID JOHN ASMUSSEN,

Defendant.

Defendant was sentenced to 37 months imprisonment on October 30, 1995, for 25 counts of mail fraud, one count of conspiracy to tamper with odometers, and 28 counts of odometer tampering. He appealed his convictions and sentence and the United States Court of Appeals for the Eighth Circuit affirmed. Defendant filed a motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255. The motion was denied. Defendant appealed and the Eighth Circuit dismissed his appeal. Defendant's supervised release was revoked on December 18, 1998, and he was sentenced to 12 months custody to be followed by two years supervised release. Defendant filed a motion to vacate, set aside, or correct the revocation sentence, which motion was denied. Defendant was released from federal custody on November 12, 1999. He is currently in the custody of the State of South Dakota on an unrelated conviction.

Defendant has filed a so-called "administrative notice in the nature of writ of coram non judice and a demand for dismissal and a reversal of judgment for conviction for lack of jurisdiction" and a so-called "judicial notice in the nature of writ of error coram nobis and a demand for dismissal or state the proper jurisdiction." The documents contain similar claims that this court lacked "political, personal, and subject matter jurisdiction" because he is a non-corporate entity. He cites to Fed. R. Civ. P. 4(j) and the Foreign Sovereign Immunities Act, 28 U.S.C. § 1602 *et seq.* The defendant claims in these documents that he holds inherent rights to expatriation and the Eleventh Amendment. He claims in one of the documents that this Court

has acted without a judge and he demands "the return of all the children back to this family at once."

The forgoing documents are legal nonsense and clearly baseless. They are frivolous filings which would normally subject a litigant to sanctions. Defendant's conviction is final. His appeal of his conviction was denied. His motion to vacate his conviction was denied and the appeal of that order was dismissed. This criminal case is closed.

Now, therefore,

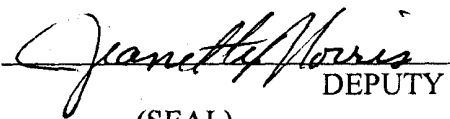
IT IS ORDERED that the motions of the defendant are denied.

Dated this 9th day of July, 2009.

BY THE COURT:


CHARLES B. KORNMAN
United States District Judge

ATTEST:
JOSEPH HAAS, CLERK

BY: 
DEPUTY
(SEAL)